

ENTERED

March 17, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT ALAN FRATTA,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:13-CV-3438

ORDER

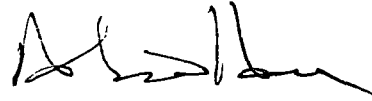
On February 13, 2020, this Court entered an order striking from the record *pro se* pleadings filed by Texas death row inmate Robert Alan Fratta. (Docket Entry No. 118). Fratta has filed a *pro se* notice of appeal from that order. (Docket Entry No. 120). Fratta has also filed a *pro se* motion to dismiss his current attorneys and to reurge the motions that were stricken from the record. (Docket Entry No. 119).

The law promises a capital habeas petitioner a mandatory right to legal counsel. 18 U.S.C. § 3599(a)(2). No United States Supreme Court authority, however, suggests that capital habeas petitioners have a right to self-representation in a post-conviction proceeding. *See Martinez v. Court of Appeal of California, Fourth Appellate Distr.*, 528 U.S. 152, 163 (2000). This Court has discretion to allow Fratta to proceed *pro se* or to insist that he accept representation.

The Court will **DENY** Fratta's most recent *pro se* motion **WITHOUT PREJUDICE**. Counsel has represented Fratta for a significant period of time. Fratta has already received judicial review of a federal petition for a writ of habeas corpus. Fratta has recently removed jurisdiction from this Court by appealing to the Court of Appeals for the Fifth Circuit. Fratta's pleadings to date do not suggest that he is more capable to argue the remaining facts of his case

than any of his attorneys. Should the circumstances so warrant in the future, the Court may reconsider any request for Fratta to proceed *pro se*.

SIGNED at Houston, Texas this 17th day of March, 2020.

A handwritten signature in black ink, appearing to read 'A. Hanen', written over a horizontal line.

Andrew S. Hanen
United States District Court Judge